

Chandra Singh Taunk.

Versus

**State of Rajasthan
& ors.**

S.B. Civil Writ Petition No. 5261/2005

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Date of Order: January 04, 2007

HON'BLE MR. JUSTICE H.R. PANWAR

Mr. P.C. Sharma, for the petitioner.
Mr. Rameshwar Dave, Deputy Govt. Advocate.

BY THE COURT:

By the instant writ petition under Article 226 of the Constitution of India, the petitioner seeks a direction to the non-petitioners to grant him selection grade with effect from the date when he completed 27 years service and to fix his pay under the Fifth Pay Commission.

I have heard learned counsel for the parties.

It is contended by the learned counsel for the petitioner that the petitioner has been denied the third selection grade on the strength of the order Annx.P/4 dated 31-3-1995. Learned Deputy Government Advocate appearing for the non-petitioner- State submits that the order Annx.P/4 dated 31.3.95 has been withdrawn by the State Government vide order dated 6-3-2006. He has placed on record the communication issued by

the Deputy Director, Ayurved Department, Jodhpur, bearing No. 502-3 dated 6-3-2006 and from this letter, it is revealed that the disputed order Annx.P/4 dated 31-3-1995 has been withdrawn and treating the order Annx.P/4 dated 31-3-1995 having been withdrawn, the case of the Junior Doctors for grant of third selection grade is being processed by the Department.

Learned counsel for the petitioner submits that the order Annx.P/4 dated 31-3-1995 has already been quashed by this Court in S.B. Civil Writ Petition No. 1630/1995 (Ramsingh Purohit Vs. State & ors.) and two writ petitions, vide order dated 17-1-2003 and the Special Appeal against the order of the learned Single Judge dated 17-1-2003 has been dismissed by a Division Bench of this Court vide order dated 14-5-2004 passed in D.B. Civil Special Appeal No. 03997/2003 (D.R.(J)) and the S.L.P. against the Division Bench judgment has been dismissed by the Hon'ble Supreme Court.

Be that as it may, the non-petitioners themselves have withdrawn the order Annx.P/4 dated 31-3-95 vide order dated 6-3-2006, though after quashing the order Annx.P/4 dated 31-3-1995 by this Court. The order Annx.P/4 dated 31-3-1995 is, thus, not in existence. At any rate, the order Annx.P/4 dated 31-3-1995, being non-est cannot be an impediment for grant of third selection grade to the petitioner.

In this view of the matter, the writ petition is allowed

and the non-petitioners are directed to consider the grant of third selection grade to the petitioner, if otherwise he is eligible, with the consequential benefits with effect from the date the petitioner completed 27 years eligible and satisfactory service within the period of three months from the date of filing a certified copy of this order. The stay petition stands disposed of. There shall be no order as to costs.

(H.R. PANWAR), J.

mcs